Policy Proposal

Commercial Backcountry Recreation on Crown Land in British Columbia

June 1992

Ministry of Environment, Lands and Parks

Bc
L215
D:P6
1992
c.3

We invite your comments

The Ministry of Environment, Lands and Parks invites you to comment on the *Policy Proposal* for Commercial Backcountry Recreation on Crown Land in British Columbia.

Comments should be submitted in writing by **October 31, 1992** to:

Ministry of Environment, Lands and Parks
Land Policy Branch
6th Floor
1802 Douglas Street
Victoria, British Columbia
V8V 1X4

92-06737/

Canadian Cataloguing in Publication Data
BC Lands.
Commercial backcountry recreation on crown land in British Columbia

ISBN 0-7726-1586-1

1. Crown lands - British Columbia - Recreational use. 2. Crown lands - Government policy - British Columbia. 3. Recreational areas - British Columbia - Planning. I. Title.

SB484.C3S952 1992 333.78'215'09711 C92-092236-8

A Message from the Minister of Environment, Lands and Parks

British Columbia's spectacular and diverse landscape is one of this province's greatest assets. British Columbians have long enjoyed the opportunity to participate in outdoor recreation activities in unspoiled backcountry areas. In recent years, interest in these adventurous leisure pursuits has grown, and an industry has developed which provides outdoor recreation experiences on a commercial basis. Wildlife viewing, hiking, and ski touring are examples of the types of activities being provided commercially.

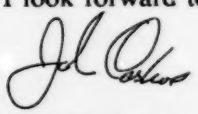
With the increasing interest in commercial backcountry recreation opportunities has come increased pressure on our backcountry areas. In order to protect these backcountry areas, we need a policy to manage commercial recreation development.

The BC Lands division of the Ministry of Environment, Lands and Parks is responsible for managing Crown land. BC Lands has been charged with the task of developing a policy to guide commercial recreation on backcountry lands. The challenge is to formulate a policy which ensures that commercial backcountry recreation management is publicly acceptable, environmentally sustainable, and provides economic benefits to local communities.

The policy development process has been characterized by extensive public consultation, beginning in January 1991 with the release of the public discussion paper "Commercial Backcountry Recreation on Crown Land in British Columbia." A number of BC Lands' regional offices also held public meetings and presentations were made to several interested groups. The responses to the discussion paper showed that there was a wide range of views on commercial backcountry recreation issues. A workshop of key stakeholders was held in November 1991 to determine if consensus could be achieved on the key issues. The workshop participants were remarkably successful in reaching consensus and providing guidance to the government.

This *Policy Proposal* reflects the messages conveyed to government through the consultation process to date. This document is not, however, a final policy. We are looking for your views on these proposals before we proceed to develop a final policy. I encourage you to participate by carefully reviewing the proposals and forwarding your thoughts to the ministry. Your comments will help us to develop an effective, balanced commercial backcountry recreation policy for British Columbia.

I look forward to hearing from you.



John Cashore
Minister of Environment, Lands and Parks

Executive Summary

Introduction

BC Lands, a division of the Ministry of Environment, Lands and Parks, is responsible for tenuring and managing public land for a wide variety of uses. In recent years, with the growing importance of the tourism industry in British Columbia, the commercial backcountry recreation industry has emerged as a significant user of Crown land. With the growing pressure on our backcountry areas, a comprehensive policy is required to manage the use of Crown land for the commercial backcountry recreation industry.

The policy development process has included extensive consultation with the public and stakeholders. Consultation was initiated through the release of a public discussion paper, "Commercial Backcountry Recreation on Crown Land in British Columbia", in January 1991. Approximately 900 submissions in the form of letters, industry briefs, and community petitions were received in response. A summary of the public comments was released in September 1991. These comments formed the basis for discussion at a workshop of key stakeholders held November 29 to December 1, 1991. Participants showed an extraordinary willingness to listen to other points of view and to work cooperatively to achieve mutually satisfactory solutions. This *Policy Proposal* draws heavily on the responses to the discussion paper and the directions established by the workshop participants.

This document is not intended to be a final policy. Your comments on the *Policy Proposal* will help to shape the final commercial backcountry recreation policy. After the responses have been analyzed, BC Lands will develop a final policy in consultation with other government agencies. Our objective is to have a working policy in place by December 1992.

Key Messages from the Public Review

Through the consultation process, several key messages were delivered to government.

A Need for Policy: While very few repondents supported the full set of policy proposals in the discussion paper, there was general agreement that there is a need for policy to manage a rapidly growing industry.

Protect Public Access: A strong message was sent that public use should take priority over commercial use, and that commercial operations should not restrict public access. However, it was also generally recognized that commercial operators should be able to restrict access to lodge facilities and other small, specific-use sites in order to protect their business investments.

Protect the Environment: A major theme throughout the consultation process was that all uses of the backcountry should be secondary to protection of ecological integrity and biological diversity.

No Sale of Crown Land: Many respondents expressed the view that backcountry lands should not be sold, citing the loss of public access, environmental concerns, and outstanding aboriginal land claims.

Preference for Local Operators: Foreign ownership and control of Crown land was another major issue. Many people expressed pride in this province's natural heritage and wished to retain the ownership and management of the land in Canadian hands.

Financial Return is Not First Priority: Concern was expressed that the government was focusing on financial return, to the detriment of environmental considerations and local priorities.

Need for Land-Use Planning: The public expressed strong support for land-use planning and the belief that commercial backcountry recreation decisions should not be taken in isolation.

Clear Structure and Process for Public Input: There was a clear desire for public input into the commercial backcountry recreation decision-making process, particularly at the local level.

Principles and Policy Proposals

Based on these messages, the following principles, shown in *italics*, were developed to guide the commercial backcountry recreation policy. The policy proposals stemming from each principle are also summarized below.

Environment is First Priority

> *The total impact of all backcountry users must lie within the carrying capacity of the land and its resources. Protection of environmental integrity and biological diversity will take precedence over the activities of both public and commercial backcountry users.*

Commercial backcountry recreation will be managed with a view to maintaining an environmentally sustainable, responsive and vibrant industry.

Commercial backcountry recreation proposals will be evaluated using available information on inventories and impacts. If additional information is required, it will be obtained through public and inter-agency consultation, studies, or assessments. Carrying capacity will be addressed through the "limits of acceptable change" system, which focuses on determining, through a consensual process, the amount of change acceptable in a particular area.

Enhanced monitoring will be undertaken to ensure compliance with tenure terms and to ensure environmental degradation is not occuring. Management plans will be required as an integral part of Crown land tenure agreements and will form the basis of performance reviews. Tenure holders or industry associations will be required to provide performance bonds reflecting potential clean-up or rehabilitation costs. Detailed reviews of commercial backcountry recreation tenures will be completed at least every five years.

BC Lands may modify or cancel a tenure for non-compliance with provisions of the tenure or management plan, or where environmental degradation, resource conflicts, or other significant problems occur. Operators will, however, be given a reasonable opportunity to resolve or correct problems before tenures are modified or cancelled.

Where a tenure is modified or cancelled due to no fault of the operator, for example as a result of unforeseen land-use conflicts or public need, the operator will be compensated for approved improvements on the site.

Guarantee Public Access

Public access to backcountry lands will be ensured, limited only by environmental and public safety considerations. Commercial backcountry uses will not be approved where they negatively impact existing or potential public recreation uses.

The decision-making process will ensure that public access issues are fully considered. Public access will be maintained in all areas of the backcountry except on small sites where buildings are located, and the requirement to ensure public access will be written into tenure documents.

No Sale of Crown Land

> *In recognition of the belief that British Columbia's backcountry lands are a shared resource, Crown land in the backcountry will not be sold.*

Government will not sell backcountry lands for commercial recreation. Leases, which provide for exclusive use of the land, will be issued only for small sites which involve intensive uses and significant investments in physical improvements. Licenses of occupation, which do not convey exclusive use, will be the standard form of tenure for commercial backcountry recreation activities on Crown land.

Fair, Open, and Consultative Decision-Making Process

> *Commercial backcountry recreation tenuring decisions will be reached through a fair, open, and consultative process. The decision-making process and criteria will be explicit and known to all parties in advance. There will be avenues for public participation in reviewing proposals and for appeal of decisions.*
>
> *Decisions will be made in the context of locally-established priorities. These might include, for example, opportunities for local entrepreneurs, encouragement of small business, and economic benefits to the local area.*

The proposed application review process is built on the belief that tenuring decisions are more effective if they are consensus-based, incorporating the views of the public, First Nations, and other government agencies. Public involvement may be solicited through formal referrals, ad hoc advisory committees, formal advisory committees, and advertising. First Nations will be consulted on proposals for commercial use of the backcountry. Other government agencies will provide key information on environmental considerations and existing and potential land and resource commitments.

The application review process has three stages:

- A ***land-use acceptability review*** is conducted for all proposals to reach a consensus-based decision on whether a land use is acceptable in the area for which is it proposed.

- If a proposed land use is considered acceptable, the application proceeds to the ***competitive process and evaluation*** stage, where it is determined whether a competitive process will occur. Proposals are reviewed in detail according to explicit environmental, social, and economic criteria.

- Acceptable proposals proceed with ***management plan preparation***, which must address all concerns raised during evaluation, and ***tenuring*** if all issues are satisfactorily addressed.

By incorporating the views of interested parties, the proposal review process for commercial backcountry recreation is itself a forum for identifying and resolving conflicts. Where disagreements about applications cannot be worked out, the Land Act provides for a formal appeal to the Minister of Environment, Lands and Parks. Where conflicts arise after tenures have been granted, BC Lands will bring the parties together in an attempt to resolve the issue. BC Lands will also be looking to the Commission on Resources and Environment for improved mechanisms as it begins to address issues of dispute resolution and appeal.

A difficult policy issue centres around existing operators conducting untenured activities on Crown land. Feedback from the public review suggested that existing operators should be given special consideration, although there was no clear direction on how to do this. It is proposed that all applications for tenures for existing activities will go through a land-use acceptability evaluation. Beyond that, this paper outlines three options for determining whether applications from existing untenured operators should be subject to a competitive process. BC Lands is seeking your views on how to deal with this issue, and will also undertake consultations with the key interests to determine if a consensus can be reached.

Need for Land-Use Planning

> *Commercial backcountry recreation will be managed in an integrated, cooperative and open manner, with provincial government agencies, local governments and local interests acting as partners in the process.*
>
> *The commercial backcountry recreation policy will be responsive to the land-use planning process being developed by the Commission on Resources and Environment. Until that process emerges, tenuring decisions will be made in the context of existing land and resource use plans such as Forest Land Management Planning and the Protected Areas Strategy.*

The commercial backcountry recreation policy is not in itself a planning process. Tenuring decisions will be made in the context of existing processes. Where plans are not in place, the process will rely on public input and consultation with other government agencies.

Fair Pricing

> *The Crown will require a fair return for commercial use of public lands. The decision-making process will ensure that financial return is secondary to environmental and social considerations.*

Bonus bids will be submitted where proposals go through a competitive process. Regardless of the amount of the bonus bid, proposals must also meet baseline environmental and social criteria.

Annual rental will be a participation rental, recognizing that the potential to generate revenue is related to a specific location as well as to management expertise and product. The detailed pricing structure will be worked out in the near future through a consensus-based process involving representatives of the industry and other interested parties. If a proposal goes to competitive process, proponents may offer higher rents, which will be evaluated in conjunction with non-monetary factors.

On the issue of whether or not the Crown should share in the financial benefits resulting from transfers of tenures, there appears to be general agreement that it is fair for the Crown to share in the increased value attributable to the land, but not in the value of improvements made by the operator or the value of the business developed by the operator. BC Lands will continue to investigate ways that the value of Crown land tenures can be recognized at the time of transfer.

New Relationship with First Nations

> *BC Lands will ensure that the commercial backcountry recreation policy reflects aboriginal interests. Opportunities will be provided for First Nations to be involved in land and resource use planning and management processes which involve backcountry recreation interests.*

BC Lands will ensure that commercial backcountry recreation policies are responsive to, and consistent with, government policies pertaining to joint stewardship, treaty settlement, and the government's relationships with First Nations. In addition, BC Lands will ensure the meaningful involvement of First Nations throughout the commercial backcountry recreation decision-making process.

Policy Implementation and Monitoring

The public consultation process used to develop and refine the *Policy Proposal* has been a positive experience in consensus-building. The consultation process will be continued to monitor policy implementation and fine-tune, reaffirm, or revise the policy as experience is gained.

Table of Contents

Executive Summary i

Introduction 1
- Background 1
- Process to Date 2
- Purpose of this Report 3
- Future Process 3

Key Messages from the Public Review 5
- Sources of Input 5
- Key Messages 5

Principles for Commercial Backcountry Recreation Policy 8

Planning For Commercial Backcountry Recreation 11
- Planning 11
- Inventories and Impacts 12

Decision-Making Process 14
- Approaches to Public Consultation 15
- The Application Review Process 16
- Existing Operators 18

Aboriginal Land Issues 21

Commercial Backcountry Recreation Tenures . . 22
Form and Term of Tenure 22
Transfer of Crown Land Tenures 23
Modification and Compensation 24

Pricing Commercial Backcountry Recreation Tenures 26
Bonus Bids 26
Annual Rental 27

Monitoring and Enforcement 28

Dispute Resolution and Appeal Process 29

Public Safety 30

Policy Implementation and Monitoring 31

Appendix 1 32

Appendix 2 34

Appendix 3 39

Introduction

Background

BC Lands, a division of the Ministry of Environment, Lands and Parks, is responsible for allocating and managing public land for a wide variety of uses including agriculture, settlement, commerce, recreation, and conservation. In recent years, tourism has emerged as an important land-use component, resulting in a need for policies to manage tourism use of Crown land -- in particular the commercial backcountry recreation industry. Commercial backcountry recreation refers to recreational activities that are carried out in relatively undisturbed natural environments on a fee-for-service basis.

BC Lands has had policies in place for a number of years to guide tenuring and management of Crown land for alpine ski developments and heli-skiing. In addition, BC Lands gives tenure to cabins associated with guided hunting and fishing operations. However, a policy has not been developed to guide the use of Crown land by other businesses such as those offering heli-hiking, trail riding or snowmobiling. Many commercial backcountry recreation businesses currently operate on Crown land without tenure, which hinders government's ability to manage the land and its resources. With the growing pressures on our backcountry areas, the increasing interest from potential operators, and the global demand for adventure tourism, a comprehensive policy is required to manage the use of Crown land for the commercial backcountry recreation industry as a whole. BC Lands, in consultation with other provincial agencies, is working toward developing such a policy.

Drafting policy for commercial backcountry recreation on Crown land requires consideration of many complex issues. All current debates relating to land and natural resource management in the province are reflected in this topic. Issues such as land-use planning, public participation in decision making, environmental concerns, economic trade-offs, and the sustainability of local economies in rural areas all arise in this policy development process.

A commercial backcountry recreation policy must also recognize that government's role in managing the industry is shared among several agencies. While the *Policy Proposal* focuses on BC Lands' role in tenuring and managing Crown land, the roles and responsibilities of other agencies must be factored into tenuring decisions. In addition, the land-use planning initiatives being developed by government will provide a framework for commercial backcountry recreation tenuring decisions. Appendix 1 provides more information on these planning processes and other government agencies' responsibilities for commercial backcountry recreation.

Process to Date

BC Lands initiated the public consultation process through the release of a public discussion paper, "Commercial Backcountry Recreation on Crown Land in British Columbia" in January 1991. This document was the starting point for public discussion on the important issues surrounding the use of Crown land for commercial backcountry recreation.

The paper included discussions on topics such as carrying capacity assessment, resource management, conflict resolution, public access and aboriginal land issues. The paper was not intended as final policy and the discussions were deliberately general in nature. Public comments were invited in response to the broad policy directions given in the paper.

The discussion paper was distributed to a large number of individuals and groups with an interest in the backcountry, including industry participants, tourism associations, outdoor recreation clubs, environmental groups, and members of the general public. Due to the strong interest in the issues surrounding the management of commercial backcountry recreation, the deadline for submissions was extended from April to June 30, 1991.

In addition to distributing the discussion paper, local public meetings were held by a number of BC Lands' regional offices and presentations were made to several interested groups, including non-profit recreation groups and local governments. As part of the public consultation process, BC Lands has also met individually with a wide range of potentially affected interests.

Approximately 900 submissions in the form of letters, industry briefs, and community petitions were received in response to the discussion paper. A summary of the public comments was released in September 1991.

An evaluation of the responses showed there was a wide range of views on the direction government should take in managing commercial use of the backcountry. BC Lands organized a workshop of key stakeholders to determine whether consensus could be reached on any of the key issues. The workshop was held in Kelowna, November 29 to December 1, 1991, and was facilitated by an independent consulting firm. The 35 participants represented a wide range of interests in the backcountry, including commercial operators, public recreationists, environmental organizations, resource-based industries, and the general public. Staff from government agencies with an interest in commercial use of the backcountry also attended.

Purpose of this Report

The response to the discussion paper demonstrated that there is a great deal of interest in the issues surrounding commercial recreation use of the backcountry. This *Policy Proposal* represents BC Lands' commitment to continuing the public consultation process before finalizing the commercial backcountry recreation policy.

The suggested policies in this document attempt to resolve some of the difficult issues concerning commercial backcountry recreation use of Crown land. The proposals reflect the messages BC Lands has heard throughout the public review, and draw heavily on the directions established at the Kelowna workshop.

This document is not intended to be a final policy. Your comments on this *Policy Proposal* will help to shape the final commercial backcountry recreation policy.

Future Process

After the responses to the *Policy Proposal* have been analyzed, BC Lands will develop a policy in consultation with other government agencies. Our objective is to have a working policy in place by December 1992.

Once the policy is implemented, it will be monitored to ensure that it functions smoothly and responds to changing circumstances. Approximately one year after implementing the policy, BC Lands will meet with representatives of the general public, key interests, and government agencies to assess the policy. We expect that the policy will be modified in response to a number of initiatives now being developed by the provincial government.

For example, the newly established Commission on Resources and Environment (CORE) will be responsible for ensuring that locally-based land-use planning processes are initiated in all areas of the province. Other provincial agencies are also undertaking planning processes, such as Forest Land Management Planning and the Protected Areas Strategy. As land-use plans are developed, they will guide commercial backcountry recreation tenuring decisions. Locally based planning bodies may also play an active role in reviewing commercial backcountry recreation proposals.

The provincial government is also implementing a protected areas strategy for critical ecological and recreational landscapes, incorporating Parks and Wilderness for the 90's, the Old Growth Strategy, and other protected area programs. Commercial backcountry recreation tenuring decisions will be in keeping with the protected areas strategy and the land-use plans which emerge from the strategy.

Another new government initiative is the Ministry of Environment, Lands and Park's proposed Environmental Assessment (EA) legislation. It is possible that certain large-scale or high impact commercial backcountry recreation proposals will be subject to the requirements of this legislation. Commercial backcountry policy and procedures will have to ensure that the two processes mesh and that applications are not subject to two different reviews.

Change is also occurring in the provincial government's relationship with aboriginal peoples. All BC Lands' policies, including commercial backcountry recreation, will need to be flexible and adaptable to developments in resolving aboriginal land issues.

Key Messages from the Public Review

Sources of Input

Public input into the development of a commercial backcountry recreation policy has been extensive. There were approximately 900 written responses to the January 1991 discussion paper. Additional public input came from local public meetings conducted by some BC Lands' regional offices and meetings with a wide range of interested parties.

In reviewing the responses to the discussion paper, it was clear that there were diverse views on the direction government should take on a number of key issues. The Kelowna workshop brought together a number of the key stakeholders to seek common ground among different interests in the backcountry. Participants showed an extraordinary willingness to listen to other points of view and to work cooperatively to achieve mutually satisfactory solutions. In endeavouring to address the public's concerns about the original policy proposals, the *Policy Proposal* draws heavily on the work done by participants at the Kelowna workshop.

Key Messages

A Need for Policy

In general, people who responded to the discussion paper recognized the need for development of a commercial backcountry recreation policy to manage the rapidly growing industry. While very few respondents supported the full set of policy proposals, they agreed that there is a need for a policy. Some people cautioned that commercial development should not proceed if it means that true undeveloped wilderness areas will be lost or damaged.

Protect Public Access

The desire to retain unrestricted public access to backcountry Crown land was the overriding issue in most of the responses to the discussion paper. A strong message was sent that public use should take priority over commercial use, and that commercial operations should not restrict public access.

However, it was also generally recognized that commercial operators should be able to restrict access to lodge facilities and other small, specific-use sites in order to protect their business investments. In keeping with the public access theme, such facilities should not be constructed so that they block public access routes. Shared use was emphasized for extensive areas of

Crown land, so that compatible uses can be accommodated within the land's carrying capacity.

Environmental Stewardship

A theme expressed in the discussion paper responses which came out more strongly at the Kelowna workshop was that while commercial operations should not infringe on public access, all backcountry uses should be secondary to protection of ecological integrity and biological diversity. In short, protection of the environment should be the primary consideration. The carrying capacity of the land and its resources will define the limits of human use.

Limit Sale of Crown Land

Concern about the sale of backcountry lands was another major issue brought out in public response to the discussion paper. The loss of public access, environmental issues, and outstanding aboriginal land claims were all presented as arguments against selling Crown land.

Preference for Local Operators

Foreign ownership and control of Crown land was another predominant concern. Many respondents expressed pride in this province's natural heritage and wished to retain the ownership and management of the land in Canadian hands. There was also a call for preference to be given to local operators.

Financial Return Is Not First Priority

Concern was expressed that the proposed competitive process seemed to emphasize economic return to the Crown, to the detriment of environmental considerations and local priorities. There was also fear that a competitive process would favour offshore investors with greater access to financial resources.

Need for Land-Use Planning

The public expressed strong support for land-use planning and the belief that commercial backcountry recreation decisions should not be taken in isolation. Land-use planning processes should provide a framework for reviewing commercial backcountry recreation proposals.

Clear Structure and Process for Public Input

There is a clear desire for public input into the commercial backcountry recreation decision-making process. The discussion paper suggested that a "panel of experts" might be used to evaluate proposals. Many people expressed the view that the real experts were locally informed residents. Participants at the Kelowna workshop reinforced this view, stating that participation by local interests was essential to the decision-making process.

In summary, the issues raised in the discussion paper have generated a great deal of interest. The time and effort that so many people contributed to the review of the proposed policies, and the interest shown in further contributions to this important policy initiative, are greatly appreciated.

Principles for Commercial Backcountry Recreation Policy

The following principles reflect the messages people interested in the backcountry have conveyed to BC Lands.

Environmental Stewardship

British Columbians place a high value on their backcountry lands and do not want to see them damaged. Any commercial activities in the backcountry should be environmentally sustainable.

- The total impact of all backcountry users must lie within the carrying capacity of the land and its resources. Protection of environmental integrity and biological diversity will take precedence over the activities of both public and commercial backcountry users.

Public Access

The public does not support development of a backcountry recreation industry which would restrict public access to the backcountry. However, there is also a belief that public and commercial recreation activities can co-exist and that the policy should work towards this goal. It is also accepted that access to backcountry lands would only be restricted for environmental protection or safety reasons, although there is a need to ensure that safety considerations are not abused as a rationale for restricting public access.

- Public access to backcountry lands will be ensured, limited only by environmental and public safety considerations. Commercial backcountry uses will not be approved where they negatively impact existing or potential public recreation uses.

- In recognition of the belief that British Columbia's backcountry lands are a shared resource, Crown land in the backcountry will not be sold. Leases allowing for exclusive use of backcountry land by commercial interests will be considered only for small areas which involve permanent facilities such as lodges.

Economic Diversification

The commercial backcountry recreation industry has the potential to provide significant economic benefits to British Columbia, particularly in traditionally resource-dependent communities. It presents an opportunity for diversification built on sustainable resource use.

- Commercial backcountry recreation will be managed with a view to maintaining an environmentally sustainable, responsive and vibrant industry.

Public Consultation

British Columbians wish to be involved in the management of backcountry lands, through participation in the process of reviewing proposals for commercial activities.

Administrative fairness is also served by providing interested parties with opportunities for meaningful participation in a review process known to all in advance.

- Commercial backcountry recreation tenuring decisions will be reached through a fair, open, and consultative process. The decision-making process and criteria will be explicit and known to all parties in advance. Opportunities will be provided for public participation in reviewing proposals and for appeal of decisions.

- Decisions will be made in the context of locally-established priorities. These might include, for example, opportunities for local entrepreneurs, encouragement of small business, and economic benefits to the local area.

Land-Use Planning

Commercial backcountry recreation decisions must be balanced with other resource needs and uses. Decisions will be made in consultation with government agencies, interested parties, and the public. Existing land-use plans and planning processes, such as Forest Land Management Planning and the Protected Areas Strategy, will provide the foundation for reviewing commercial backcountry recreation proposals. Applications for activities which are inconsistent with approved plans will not be considered.

The new Commission on Resources and Environment (CORE) is responsible for developing local land-use planning processes throughout the province, which will facilitate tenuring decisions. Commercial backcountry recreation policies will tie in with the measures established by CORE.

- Commercial backcountry recreation will be managed in an integrated, cooperative and open manner, with provincial government agencies, local governments and local interests acting as partners in the process.

- The commercial backcountry recreation policy will be responsive to the land-use planning process being developed by the Commission on Resources and Environment. Until that process emerges, tenuring decisions will be made in an integrated, consultative manner, in the context of existing land and resource use plans.

Fair Return to the Crown

Pricing is a fundamental element of all land management programs. As manager of Crown lands, BC Lands is responsible for ensuring that a fair rate is charged for private uses of Crown land.

- The Crown will require a fair return for commercial use of public lands. The decision-making process will ensure that financial return is secondary to environmental and social considerations.

New Relationship with First Nations

This is a period of fundamental change in both the legal environment and government policies regarding aboriginal land issues. For example, the provincial government recently announced its recognition of aboriginal title and its commitment to undertaking joint stewardship arrangements with respect to land and resources. The pace of change is rapid, and it is difficult to predict how BC Lands' programs will be affected. It is therefore important that the commercial backcountry recreation policy be responsive to change.

- BC Lands will ensure that the commercial backcountry recreation policy reflects aboriginal interests. Opportunities will be provided for First Nations to be involved in land and resource use planning and management processes which involve backcountry recreation interests.

Planning For Commercial Backcountry Recreation

The use of Crown land for commercial backcountry recreation presents both opportunities and challenges for provincial land managers. It means balancing potential provincial, regional and local economic benefits with environmental and social considerations. It involves defining and quantifying values, and coordinating the needs, interests and activities of a wide range of government agencies, local interests and licensed users.

Planning

A strong message expressed in the review of the discussion paper was that government should take a broader land-use planning perspective which builds on local involvement. There is also general understanding that there is a need, even in the absence of comprehensive land-use plans, to deal with commercial backcountry recreation demands and uses.

The commercial backcountry recreation policy is not in itself a planning process. It relies on current processes such as Forest Land Management Planning and the Protected Areas Strategy, supplemented by consultation with other government agencies and the public.

- Tenuring and managing of Crown land for commercial backcountry recreation will be consistent with the activities, policies and plans of the Commission on Resources and Environment, with the planning processes of other provincial agencies, and with regional or local land-use plans.

- The review of proposals for commercial backcountry recreation use of Crown land will explicitly consider the needs and interests of local communities. Regional offices of BC Lands will solicit public input into proposal reviews.

Public input will play an important role in providing local knowledge to government and will assist in determining if studies or assessments are required to review proposals.

The public consultation process will address, among other things:

- using resources within their ecological limits and maintaining the ecological diversity and integrity of backcountry lands;
- recognition of existing land and resource commitments;
- integrated use of Crown land and resources;
- maintaining recreational experiences and business viability through the prevention of overcrowding;
- the potential for economic benefits to local communities.

Inventories and Impacts

It is also clear that resource inventories, and social and environmental carrying capacity are key elements to be addressed early in the process of considering commercial backcountry recreation proposals. However, participants in the review also understood that carrying capacity is complex, and that government's current ability to properly assess the carrying capacities of backcountry areas is limited by the availability of staffing and resources.

- Available information on biophysical features and capability, existing and potential uses, existing and potential resource values, and local interests and concerns will all be used in the commercial backcountry recreation decision-making process.

- Where some or all of this inventory work has been completed in conjunction with a regional or local land-use plan recognized by government, BC Lands will use this information and act in accordance with the plan.

- Where additional inventory information is required to evaluate a commercial backcountry recreation proposal, it will be obtained through public and inter-agency consultation, studies, or assessments.

  The terms of reference for studies will incorporate local priorities, and will generally be managed by government. Recognizing that the information generated may have value beyond a specific proposal, studies may be funded by the successful proponent, by government, or jointly.

- In response to applications for commercial recreation use of backcountry lands, carrying capacity will be addressed through the system known as "limits of acceptable change" where land-use plans are not in place.

BC Lands will use this system in coordination with other government agencies and local interests when completing initial reviews of commercial backcountry recreation proposals, during competitive processes, when deciding whether or not to grant tenure, and when making decisions on the terms and conditions which may be attached to tenures.

The limits of acceptable change system redefines the traditional question about carrying capacity from "how much use is too much?" to "how much change is acceptable?". The emphasis is on the effects of use rather than the amount of use. Local decisions are made on how much change will be allowed in an area and what management actions are needed to guide it. The process relies heavily on inventories and local knowledge and can be modified in relation to the scale and sensitivity of the proposal and the amount of public interest. The key elements of the limits of acceptable change system are:

- concerns, issues, and values in the area of interest are identified by government agencies and local interests;

- participants in the process make consensus-based decisions on the environmental, social, and economic conditions suitable for the area, and identify measurable indicators of conditions;

- existing environmental, social, and economic conditions are inventoried and mapped;

- government agencies and interested parties identify and analyze options for combinations of environmental, social, and economic conditions;

- a consensus-based decision is made on the final combination of acceptable environmental, social, and economic conditions for the area. If the proposal is approved, these conditions are incorporated into management plan(s), and tenure(s) are issued on that basis;

- government monitors effectiveness of management actions through use of the pre-determined indicators, and takes corrective action as necessary.

Decision-Making Process

An open, fair and balanced decision-making process is required to evaluate commercial backcountry recreation proposals. The public review stressed that proposal evaluation must emphasize environmental quality, public access and benefits/impacts to local communities over financial return to the Crown. There was also a clear call for local involvement in the review process.

Concern was also expressed about allocating commercial backcountry recreation land uses through a competitive process. There is an impression that the dollar value of a bid would override all other factors. The public clearly places priority on environmental stewardship and economic benefits to local communities.

Two measures are proposed to deal with these concerns. First, the proposal evaluation process will be structured so that monetary bids do not outweigh other considerations. All competing bids will be ranked on the basis of environmental, social, and economic criteria. Proposals which do not meet baseline standards will not be considered.

The second major feature of the decision-making process is the involvement of local interests in reviewing proposals. This will ensure that decisions are made in the context of locally-established criteria such as minimal environmental impacts or local economic benefits, and not solely on monetary considerations.

The competitive process also came under some criticism because it does not recognize the groundwork done by the initial applicant. However, by putting more than one proposed land use for an area on the table, it helps to determine the most suitable land use, and ensures that proponents are treated consistently. Incorporation of public input into the review process and balanced consideration of environmental, social, and economic criteria will ensure that initial proponents are not disadvantaged.

Another strong message conveyed to government was that preference should be given to local interests in evaluating proposals. Current government policy is to consider investment proposals on their own merits regardless of the proponent's origin. The proposed evaluation process will focus on ensuring that local benefits are maximized regardless of whether a proposal is local or international.

Approaches to Public Consultation

A clear desire has been expressed for local involvement in the decision-making process for allocating Crown land for commercial backcountry recreation use. Public involvement is also an issue in many other policy areas, with government agencies and the Commission on Resources and Environment exploring the use of local advisory bodies in a wide range of decision-making processes. Until the government's overall approach to public consultation becomes clearer, BC Lands suggests using a variety of consultation methods tailored to specific situations. Wherever possible, consultation should be tied into existing consultative groups or processes, such as the community resource boards established in some communities. This will provide flexibility to meet the needs of both government and people with an interest in commercial backcountry recreation decisions.

Selecting the most appropriate consultation approach will be based on: the scope, scale and complexity of the commercial proposal; potential environmental and social impacts; information availability; and time and resource availability.

Referral to Local Interests

This approach involves formally referring commercial backcountry recreation proposals to a wide range of local interests, in addition to soliciting comment from the general public. BC Lands would identify a wide range of interests in commercial use of the backcountry, such as outdoor recreation organizations, environmental groups and industry. Individuals representing these interests would be invited to be on a formal referral list. Proposals would be referred to local government agencies and local interests at the same time.

Comments from this referral network would be factored into the decision process. This consultation approach is particularly suitable for reviewing proposals for land-use acceptability.

Ad Hoc Advisory Committee

Large, complex or high-impact commercial proposals may warrant consultation beyond referrals. Government may structure an ad hoc committee of local interests to review a specific proposal, or use an existing advisory group or consultation process. Depending on the situation, the committee would meet at one or more stages of the proposal review process.

Formal Advisory Committee

Some regions of the province may be subject to more intensive demands for commercial use of the backcountry. In these situations, it may be appropriate to establish an ongoing local advisory committee to review commercial backcountry proposals, or to consult with existing advisory bodies such as community resource boards. As with the ad hoc committee approach, participants will represent a range of interests in the backcountry.

Consultation With First Nations

In recognition of the government's commitment to developing new relationships with aboriginal peoples, First Nations will be consulted on proposals for commercial use of the backcountry. Consultation may range from notification to participation in consensus-building forums.

Broader Public Input

Advertisements may also be placed to ensure awareness of proposals and opportunities for comment at the provincial level. The general provincial interest will also be addressed through public and agency comments. BC Lands will ensure that information is available in response to specific requests.

The Application Review Process

BC Lands will coordinate the review of commercial backcountry recreation proposals, issue tenures under the Land Act, and monitor and enforce tenure provisions. Decisions will be made in consultation with other government agencies, First Nations, and the public.

The proposed review process for commercial backcountry recreation applications has three stages:

Land-Use Acceptability Review
Competitive Process and Evaluation
Management Plan Preparation and Tenuring

The process is outlined briefly below, with a detailed description in Appendix 2.

Stage I: Land-Use Acceptability Review

The review process is triggered by submission of a proposal. The first stage in the process is a review to determine whether the proposed land use is acceptable. This stage involves:

Initial proposal - submitted by proponent to BC Lands. Applications may be for single or multiple activities.

Consultation with government agencies - to identify land-use issues, including environmental considerations and existing land or resource commitments.

Local consultation - to ensure that the views of local interests are considered.

Consultation with First Nations - to ensure that any concerns are identified and dealt with.

Local advertisement - to solicit public input and expressions of interest from local entrepreneurs. Public comments may also be solicited at the provincial level.

Land-Use decision - proposals may be rejected as unsuitable land uses, accepted as suitable land uses, or accepted with conditions. A decision on land-use acceptability does not guarantee that the proposal will be tenured.

Stage I may be modified in the future to reflect the Environmental Assessment (EA) legislation being developed by the Ministry of Environment, Lands and Parks. Some commercial backcountry recreation proposals, due to their nature or scale, may be subject to the requirements of the legislation. Efforts will be made to ensure that the two processes mesh so that proposals are not subject to two separate reviews.

Stage II: Competitive Process and Evaluation

If a proposed land use is considered acceptable, the application proceeds to the second stage, where it is determined whether a competitive process will occur. At this point, proposals are reviewed in detail according to explicit environmental, social, and economic criteria. The key steps in this stage are:

Wider call for expressions of interest - issued where the consultation process suggests that broader exposure is warranted, or where government considers that province-wide priorities require wider calls for interest.

Competitive process - occurs if additional expressions of interest are received.

Consultation with government agencies - for further discussion of land-use issues.

Local consultation - to ensure that the views of local interests are considered.

Consultation with First Nations - to ensure that any concerns are identified and dealt with.

Evaluation - detailed assessment of proposal(s); consultative approach involving interested parties and government agencies; studies may be undertaken if additional information is required for thorough assessment. Unacceptable proposals will be rejected.

Stage III: Management Plan Preparation and Tenuring

Proposals which are considered acceptable or acceptable with conditions proceed to the final stage:

Management plan preparation - must address issues raised during the review process before approval will be granted. Where there is a high level of public or government interest, there will be opportunities for input into management plan preparation.

Other agencies' permits and licences issued - prior to or concurrently with Crown land tenure(s).

Crown land tenure(s) issued - if all conditions are met.

Existing Operators

The discussion paper proposed that existing commercial backcountry recreation operators would have to go through a competitive process to obtain any additional land-use rights.

A number of respondents commented that existing operators should be given special consideration, either by foregoing the competitive process entirely or by giving preference to existing operations in some more limited fashion. Participants at the Kelowna workshop also felt that existing operators should be recognized in some way, although there was no clear direction on how to do this.

There are two situations where existing operators will seek tenures for commercial backcountry recreation activities. The first involves tenured operations seeking authorization for new activities. The second involves operators applying for tenures under the new policy for existing activities being conducted on Crown land.

In the first situation, it is proposed that applications for additional commercial backcountry recreation activities be subject to the full review process described in Appendix 2. The proposed activities would first be evaluated for land-use suitability. Acceptable activities would only go through a competitive process if other expressions of interest are received. Given the emphasis on environmental and social criteria in assessing proposals, existing operators would have a natural advantage.

In the second case, operators will be seeking tenures for activities being conducted on Crown land without formal government approval. The issue here is how to balance "recognition" of existing operators with equity, fairness, and ensuring the most appropriate land use. Operators are concerned that subjecting their activities to a competitive process may result in the loss of those activities, along with their capital investment in trails, buildings and other infrastructure.

Consensus has not yet been achieved on a preferred approach for dealing with untenured commercial backcountry recreation activities. It is proposed that all applications will be evaluated on land-use suitability. Beyond that stage, there are a number of options available to determine whether there should be a competitive process. This paper presents three options for public review. Concurrently, BC Lands will undertake consultations to determine if a consensus can be reached.

Options for Existing Untenured Operators

1. ***Tenure Certain Operations, subject to land-use acceptability***

   If all untenured activities are automatically granted tenure, there is a risk that government will be seen as "rewarding" operators who undertook unauthorized activities, while penalizing those who waited until the commercial backcountry recreation policy was developed. This option attempts to find some middle ground by considering tenure for activities which have been undertaken commercially for at least five years. These activities would be reviewed for land-use acceptability, but there would not be a call for additional expressions of interest.

   Activities which do not meet the "five year" criteria would be subject to the full review process described in Appendix 2.

Evaluation:

- Endeavours to recognize operations that have been in business for a reasonable period.
- May be seen as rewarding unauthorized use of Crown land.
- Disadvantages proponents who chose not to undertake unauthorized activities.

2. ***Full Review Process, with competitive advantage***

Under this option, all existing untenured commercial backcountry recreation activities would be reviewed for land-use acceptability and advertised to determine whether there are other parties interested in conducting the activities. If other expressions of interest are received, a competitive process will ensue, with an explicit advantage given to the existing operator. In order to encourage existing untenured operators to apply for tenures, the competitive advantage option could be time-limited, for example, for two years from the date of policy implementation.

Evaluation:

- Recognizes existing operators' investment.
- Recognizes that untenured activities were often initiated in good faith.
- May be seen as rewarding unauthorized use of Crown land.
- Disadvantages proponents who chose not to undertake unauthorized activities.

3. ***Full Review Process, no competitive advantage***

All existing untenured commercial backcountry recreation activities would be subject to the full review process, including land-use acceptability review and advertising for other expressions of interest. If other expressions of interest are received, proposals will be evaluated through a competitive process, with no advantage given to the existing operator.

Evaluation:

- Most existing operators would likely have an intrinsic competitive edge due to knowledge, experience, infrastructure.
- Creates open opportunity to access resources.
- Provides equal opportunity for proponents who did not operate in the absence of a Crown land tenure to now acquire land-use rights.

Aboriginal Land Issues

As the discussion paper noted, government policies toward aboriginal land questions are in a state of change. The discussion paper committed that commercial backcountry recreation policies would adapt to be consistent with evolving government policies on aboriginal land issues. In addition, commercial backcountry recreation proponents would be required to confer with appropriate aboriginal groups as part of the proposal review process.

These proposals generated little comment from the public. Those who did comment mostly expressed the view that new dispositions of Crown land should not be made until land claims are settled. On the other side, a few individuals objected to what they perceived as "special treatment" for aboriginal people.

It is clear that the government's relationships with First Nations will continue to evolve over the coming years. Since the release of the discussion paper, the provincial government has announced its recognition of aboriginal title and the inherent right to self-government. Based on this recognition, new partnerships are being developed on a government-to-government basis between the Province and First Nations. One aspect of these new relationships will be a meaningful role for First Nations in land and resource management, including commercial backcountry recreation.

As treaties and self-government arrangements are negotiated between First Nations and the federal and provincial governments, and as the Province and First Nations develop joint stewardship arrangements for land and resources, provincial policies and programs must adapt to the outcome of negotiations and new partnerships.

- BC Lands will ensure that commercial backcountry recreation policies are responsive to, and consistent with, government policies pertaining to joint stewardship, treaty settlement, and the Province's relationships with First Nations.

- BC Lands will ensure the meaningful involvement of First Nations throughout the commercial backcountry recreation decision-making process.

Commercial Backcountry Recreation Tenures

Form and Term of Tenure

Crown land is an important component of most commercial backcountry recreation operations, and is made available to commercial operators through tenures issued by BC Lands under the Land Act. As explained in Appendix 3, different tenures provide different bundles of rights to tenure holders.

During the review of the discussion paper, a strong message was given to government that it should not consider the sale of backcountry lands for commercial recreation. Comments from the public also stressed that public access should be maintained in all areas of the backcountry except on small sites where buildings are located. It was also noted that facilities should be sited to minimize environmental impacts and not to impede public access routes. Limits on access for both commercial operators and the public were accepted for environmental or safety reasons, although public safety must not be misused as a rationale for restricting public access.

- Government agencies will coordinate the issuance of land and resource rights necessary for viable commercial backcountry operations, with input from local interests.

- Land-use tenures will be tailored to the needs of each operation. Where appropriate, one tenure will be issued for all activities undertaken by an operator in a given area.

- Government will not sell backcountry lands for commercial recreation.

- Leases will be issued only where sites are small, and involve intensive uses and significant investments in physical improvements. Leases will normally be issued for a term of 30 years, and may be replaced at mid-term under the terms of the policy in effect at the time of replacement.

- Licenses of Occupation will be the standard form of tenure for commercial backcountry recreation use of Crown land. Licenses will be issued for temporary camps, trail systems, other strategic sites, and for extensive uses that are normally free-ranging, do not follow a regular route, and require no development or modification of the natural landscape. The normal term for a new or replacement license is 10 years.

Licenses authorize the use of Crown land for a specific commercial purpose, and do not provide the right to exclude the public or other commercial users.

Licenses will also be issued for non-area-based activities, and may be available for backcountry recreation activities of non-profit groups and organizations.

- The requirement to ensure public access will be written into all tenure documents. In exceptional circumstances where government agencies and interested parties agree that there is a need to manage access, the specific provisions will be written into tenure documents. This might occur, for example, where there is a need to manage public and commercial use to preserve the quality of recreational experiences or environmental integrity.

- Government will be responsible for managing public access for safety or environmental reasons. Commercial operators will not be asked to manage public access on the government's behalf.

Transfer of Crown Land Tenures

Whether or not the Crown should share in the financial benefits resulting from transfers of Crown land tenures produced strong views on both sides of the issue. A number of people felt that the rights to use Crown land should not be transferrable, and that any increase in value should accrue to the government and people of British Columbia. Others argued that it was inappropriate for the government to share in the value of the land rights upon which their business was built.

Because the supply of prime land for commercial backcountry recreation opportunities is limited, land-use tenures have an intrinsic value. This is similar to many other forms of licenses issued by governments, such as taxi licenses and dairy quotas. The value of such licenses is realized when the business activity is sold, with the seller often reaping windfall profits.

Participants at the Kelowna workshop agreed that it was fair for the Crown to share in the increased value attributable to the land, but not in the value of improvements made by the operator or the value of business developed by the operator. There are several ways that the value of Crown land tenures can be recognized at the time of transfer:

- flat or scaled transfer fee;
- determine the value of the Crown resource through an appraisal; or
- determine the value of the Crown resource through an accounting valuation.

Further research into the feasibility of these options will be conducted.

In accordance with long-standing policy, BC Lands' approval must be received prior to the transfer of Crown land tenures to a third party.

- All transfers of commercial backcountry recreation tenures will require the prior approval of government.

- Government will ensure that all land and resource tenures associated with a commercial backcountry recreation operation are transferred concurrently. The new tenure holders will be responsible for operating under the terms of the original tenure(s).

- Requests for transfers may be used by government as an opportunity to update or modify the tenure terms.

Modification and Compensation

The discussion paper suggested that government would not be required to compensate operators if their tenures were modified as a result of unforeseen land-use conflicts or public need. Reaction to this proposal was generally negative. It was perceived as unfair that government should be able to take actions which negatively affect a commercial operation, without providing compensation, particularly when the original application had been subject to a thorough review. It was also suggested that a review mechanism could be established to deal with modifications to land-use tenures.

Existing and potential future land or resource commitments will be identified through the consultation and referral process, to ensure that commercial backcountry operators are aware of other interests in the land which may impact their businesses.

- BC Lands may modify or cancel a Crown land tenure where an operator is not complying with provisions of the tenure or management plan, or where environmental degradation, resource conflicts, or other significant problems occur.

Operators will, however, be given a reasonable opportunity to resolve or correct problems prior to any modification or cancellation of tenure. The reasons for modification or cancellation will be communicated in writing to the commercial operator.

- Commercial operators may also approach BC Lands to modify their tenures. Proposals for significant changes will be referred to relevant resource agencies and local interests, examined within the limits of acceptable change system, and re-evaluated for land-use acceptability.

- Where tenures are modified or cancelled because of non-compliance or operational problems, the operator will be given a reasonable period of time to remove all improvements from the land. Where operators do not satisfactorily complete these clean-ups, performance bonds will be used to fund the work. Operators will not be compensated as a result of these cancellations or modifications.

- Where a tenure is modified or cancelled due to no fault of the operator, the Crown will compensate the operator only for approved improvements on the site.

The provincial government recently announced the creation of a Resources Compensation Commission. The Commission will review the principles used in determining compensation when mining or logging rights are reduced or taken back by the government, and examine the process used to decide the amount of compensation. While the Commission is dealing specifically with mining and logging rights, which differ from land-use rights, there may be lessons which can be applied to compensation for modification or removal of land-use tenures. BC Lands will remain open to the results of the Commission's work.

Pricing Commercial Backcountry Recreation Tenures

The public nature of Crown land requires a pricing structure which results in a fair price for the allocation of Crown land to private interests. Traditionally, BC Lands has used comparisons with the private land market to determine appropriate prices for Crown land. However, in the case of backcountry lands the provincial government is the monopoly provider and price cannot be established by referring to comparable private transactions. An alternative method of establishing value is required.

Bonus Bids

The discussion paper proposed the use of bonus bids as a means of establishing willingness to pay for commercial use of backcountry lands. Feedback on this proposal was generally negative.

Concern was expressed that the dollar value of a bid would outweigh non-monetary values, such as environmental and social factors. It is considered essential that proposals be evaluated on the full range of impacts and benefits. Respondents also expressed the view that bonus bids are an obstacle to small businesses' participation in the backcountry sector. There is a strong desire for local operators to be given preference, coupled with the fear that bonus bids give an advantage to foreign investors with greater access to financial resources.

Although the discussion paper indicated that proposals would be considered in terms of the total package of economic, environmental, and social benefits and impacts, it clearly created the impression that economic criteria would dominate.

As explained in the section on the decision-making process, bonus bids will only be required where there are multiple proposals and a competitive process ensues. In evaluating competing proposals, two measures are suggested to ensure balanced consideration of all factors. First, local interests will be involved in establishing criteria and reviewing proposals. This will ensure that decisions will be made in the context of locally-established criteria such as minimal environmental impacts or local economic benefits, and not solely on monetary considerations. Second, proposals which do not meet the baseline environmental and social criteria will not be considered further.

- Where a proposal goes to a competitive process, proponents will be required to submit a bonus bid indicating their willingness to pay for Crown land tenure. Regardless of the amount of the bonus bid, proposals which do not meet baseline environmental and social critera will not be approved.

Annual Rental

The discussion paper proposed a rental system based on a percentage of the commercial operation's gross revenue. Feedback was mixed, with an almost equal number of responses for and against the proposal.

Rent as a percentage of gross revenue is used in several other North American jurisdictions where the public sector is the only provider of land for certain uses. It is also used in the private sector where the potential to generate revenue is related to a specific location, as well as to management expertise and product. In the absence of a market-comparison approach, it provides a fair, equitable and administratively efficient pricing structure, with the rental tied to the use of the Crown land and responsive to changing market conditions over time.

However, a number of commercial operators stated that pricing based on percentage of gross revenue places an administrative burden on them. While BC Lands favours a form of participation rental, such as percentage of gross revenue or fees per user-day, industry and other interested parties will be consulted to ensure that pricing provides a fair return to the Crown and is workable for operators.

- Annual rental for commercial backcountry recreation tenures on Crown land will be based on a participation rental for activities conducted on Crown land.

- If a proposal goes to competitive process, proponents may offer higher rents, which will be evaluated in conjunction with non-monetary factors.

BC Lands is undertaking a major review of the fundamental principles governing Crown land administration and pricing. The review will likely lead to a new approach to pricing which incorporates a wider range of the economic, environmental, and social values inherent in pricing decisions. Pricing policies will be established through an open process which incorporates appropriate expertise and involves a cross-section of affected parties.

Monitoring and Enforcement

Issuing tenures is only the first step in a long process of administration and management of commercial backcountry recreation operations. At the present time, tenures are reviewed by BC Lands staff every five years to ensure that operators are complying with all tenure provisions. Monitoring may consist of file reviews, discussions with operators, referral agencies or local interests, and/or site inspections.

Throughout the consultation process, a strong desire was expressed to see government do a more consistent, frequent and thorough job of monitoring commercial backcountry recreation operations and enforcing management provisions.

- Management plans will form an integral part of Crown land tenure agreements, and will provide the basis for regular monitoring and reviews of operator performance.

- Tenure holders or industry associations will be required to provide a performance bond reflecting potential clean-up or rehabilitation costs.

- BC Lands will complete detailed reviews of commercial backcountry recreation tenures at least every five years to ensure that:

  - environmental degradation is not occurring as a result of the use;
  - the use is within the limits of acceptable environmental and social change;
  - the land is being used diligently for the purposes authorized;
  - the operator is complying with all terms and conditions of the tenure;
  - tenure and management plan provisions remain relevant.

- Monitoring will consist of intensive file reviews, interviews with individual commercial operators, inspections of all facilities and areas of use, and input from local interests.

- Government agencies' staff or interested parties, including the general public, may advise BC Lands staff at any time of any concerns or problems relating to a commercial backcountry recreation operation.

- Actions of the Crown where operators do not comply with the provisions of their tenure documents, or where other problems are occurring as a result of the operation, are described in the section on modifying commercial backcountry recreation tenures.

Dispute Resolution and Appeal Process

BC Lands recognizes the need for effective dispute resolution mechanisms during the initial decision-making process and during the term of a tenure. A number of tools are currently used to deal with conflicts.

The commercial backcountry recreation decision-making process is itself a forum for identifying and dealing with conflicts, by focusing on consultation with a wide range of interest groups and individuals at the local level. Potential disputes can be recognized and dealt with at the outset, avoiding hard positions being taken early in the decision process. It also provides opportunities for creative, locally-based solutions to local issues.

From time to time issues will arise that are not readily addressed within the decision-making process. In these situations, BC Lands regional staff will meet with the concerned parties in an effort to resolve the dispute. Experience has shown that this approach is often successful in resolving land-use disputes at the local level.

- Where a dispute over an application cannot be resolved at the local level, the Land Act provides for a formal appeal to the Minister of Environment, Lands and Parks. The Minister determines whether the appeal warrants a hearing, and may appoint a person to hold a hearing. The Minister then makes a ruling based on the recommendation of the person hearing the appeal.

Land-use disputes also arise after land has been tenured. In the case of commercial backcountry recreation, conflict could occur between commercial and public use of Crown land or between commercial operators.

- Where land-use conflicts arise, BC Lands regional staff will bring the concerned parties together to attempt to resolve the conflict. In some cases, consideration may be given to bringing in an independent third party skilled in conflict resolution.

BC Lands acknowledges that these existing mechanisms require improvement. We will be looking to the Commission on Resources and Environment for guidance, as one of its tasks is to address issues of dispute resolution and appeal. CORE's work may result in the development of new processes which could be adopted by government ministries.

Public Safety

Public safety issues have not provoked much discussion during the public consultation process. The approach suggested in the discussion paper seems to be acceptable, with general agreement that it is appropriate for government to encourage backcountry recreation industry associations to self-regulate through development of standards for operator conduct that foster a safe industry.

- The commercial backcountry recreation industry will be encouraged, through its individual associations, to develop standards and regulations to ensure client safety and well-being.

Policy Implementation and Monitoring

This *Policy Proposal* marks the beginning of a significant transition in the tenuring and management of commercial backcountry recreation uses of Crown land.

The public consultation process used in developing and refining these policy proposals has been a positive experience in consensus building involving the public, government agencies, and key interests. It is proposed that this process be continued to monitor implementation of the policy and to fine-tune, reaffirm, or revise policy as experience is gained.

- After the commercial backcountry recreation policy has been in place for approximately one year, BC Lands will meet with representatives of the general public, key interests, and government agencies to review implementation. Additional meetings may be held if it is considered necessary.

Appendix 1

Context for Commercial Backcountry Recreation Policy

Commercial backcountry recreation policy development is occuring within the context of a number of land-use planning initiatives being undertaken throughout the province. The policy must also recognize that responsibility for commercial recreation use of the backcountry is shared among several government agencies.

Land-Use Planning Initiatives

Several land-use planning initiatives are being undertaken to improve decision-making for the use and management of Crown land and resources. These initiatives include:

- the regional planning strategies being developed by the Commission on Resources and Environment;
- the protected areas strategy for critical ecological and recreation landscapes, which incorporates Parks and Wilderness for the 90s, the Old Growth Strategy, and other protected area programs;
- Forest Land Management Planning.

The intent of these planning processes is to identify the most suitable uses of land and resources. For example, some areas may be determined to be most suitable as parks or wilderness areas. Others may be most appropriate for integrated resource management which might include, for example, timber harvesting and wildlife management. Certain types of commercial backcountry recreation activities will be appropriate in parks and wilderness areas, while others are more appropriate for integrated use lands.

The commercial backcountry recreation *Policy Proposal* sets out a process for making decisions on whether or not to tenure land for commercial backcountry recreation use. Where land-use plans are in place, they will provide the framework for tenuring decisions. Until plans are in place, however, government must continue to make decisions on whether or not to tenure land. Where plans do not exist, land and resource commitments and government agencies' responsibilities will be factored into the decision-making process.

The commercial backcountry recreation decision-making process requires effective consultation with local interests, the public, industry, First Nations, and government agencies. If a proposed use would negatively affect environmental quality, protected area potential, public use, or other commercial resource users, the proposal will not be approved unless the impacts can be overcome.

Government Responsibilities for Recreation Management

Management of commercial backcountry recreation is shared among a number of government agencies, each responsible for specific components of the industry. Generally, these components can be defined as the *land* itself; the *resources* on the land; and the *business dimensions* of the industry.

BC Lands has primary responsibility for the *land component* of the industry. Excluding resources on the land, BC Lands issues Crown land tenures for commercial backcountry recreation operations. The two most common forms of tenure are leases (for small sites with significant improvements) and licenses of occupation (for extensive uses). Depending on the operation, one or more forms of tenure may be required. The *Policy Proposal* focuses on tenuring the land component for commercial backcountry use.

Several agencies participate in issuing rights to and managing the *resource component* of commercial backcountry recreation. BC Environment tenures rights and collects fees for commercial use of fish and wildlife resources, such as guide-outfitting rights to a specific game species. The Ministry of Forests is responsible for allocating rights to timber and range resources that may be modified by a commercial operation. For example, a cutting permit would be required if an operator wished to remove trees in order to construct a trail system. Within provincial parks, BC Parks manages commercial use of resources, in conjunction with other resource licensing agencies.

Primary responsibility for the *business component* of the industry rests with the Ministry of Tourism and Ministry Responsible for Culture. At the industry level, Ministry initiatives focus on research into marketing and development opportunities for commercial backcountry sectors, preparation of regional tourism development strategies, and compilation of databases on significant tourism resources in the province. At the operator level, the Ministry provides advice on the development of business plans and assists in linking investors with commercial backcountry opportunities. In addition, Tourism has the authority to license accommodation associated with a commercial backcountry recreation operation.

Government agencies also have responsibilities for public recreation. For example, the Ministry of Forests provides public forest recreation facilities and tenures public recreation use on land designated as Provincial Forest. BC Lands may tenure public use outside of Provincial Forests, and BC Parks may issue permits for public use within provincial parks. On the resource side, BC Environment authorizes non-commercial use of fish and wildlife resources through freshwater angling and sport hunting licenses.

Appendix 2

Commercial Backcountry Recreation Decision-Making Process

Stage I: Land-Use Acceptability Review

Initial Proposal

Proponents submit applications to BC Lands. Applications may be for single or multiple activities.

- Proposals must specify:
  - proposed activities
  - nature of the products and services to be offered;
  - times of the year activities would be conducted;
  - proposed volume of clients;
  - specific area(s) to be used;
  - natural resources to be used;
  - facilities or infrastructure;
  - benefits to the local area;
  - other land and resource uses in the area(s) under consideration.

Consultation with Government Agencies

- Proposals are referred to other government agencies for initial comments on land-use acceptability. Environmental considerations and existing or potential land and resource commitments will be identified.

Local Consultation

- Local views will be sought through a variety of consultation techniques.

Consultation with First Nations

- First Nations will be consulted to ensure that their concerns are identified and dealt with.

Local Advertisement

- Local advertisements will be placed to solicit local input. Wider public input may also be sought through broader advertising.

- Summaries of proposals are also advertised locally to solicit expressions of interest.

- Expressions of interest need not be limited to the same type or scope of activity as the initial proposal, but proposals for different activities must be evaluated for land-use acceptability.

- Expressions of interest must specify:
  - proposed activities
  - nature of the products and services to be offered;
  - times of the year activities would be conducted;
  - proposed volume of clients;
  - specific area(s) to be used;
  - natural resources to be used;
  - facilities or infrastructure;
  - benefits to the local area;
  - other land and resource uses in the area(s) under consideration.

Land-Use Decision

- A decision is made on the acceptability of the proposed land use. Proposals may be:

  - accepted as a suitable land use;
  - accepted with conditions, to be specified in writing; or
  - rejected as an unacceptable land use. If the proposal is rejected, reasons will be specified in writing.

If the proposed use is acceptable, the review process proceeds. A favourable decision on land-use suitability does not guarantee that the proposal will be tenured. At this point, proponents will be advised to contact other agencies regarding additional permits or licences.

Stage 1 may be modified in the future to reflect the Environmental Assessment (EA) legislation being developed by the Ministry of Environment, Lands and Parks. Some proposals, due to their nature or scale, may be subject to the requirements of the legislation. After the EA process is established, proposals will be assessed under either the commercial backcountry recreation review process or the EA process.

Stage II: Competitive Process and Evaluation

Wider Call for Expressions of Interest

- Certain proposals for high-demand activities or for sites with exceptional natural attributes may be advertised more broadly for expressions of interest. This would occur where the consultation process suggests it, or where government determines that province-wide priorities could be met through wider exposure.

- Expressions of interest need not be limited to the same type or scope of activity as the original proposal, but proposals for different activities must be evaluated for land-use acceptability.

- Expressions of interest must specify:
  - proposed activities
  - nature of the products and services to be offered;
  - times of the year activities would be conducted;
  - proposed volume of clients;
  - specific area(s) to be used;
  - natural resources to be used;
  - facilities or infrastructure;
  - benefits to the local area;
  - other land and resource uses in the area(s) under consideration.

Competitive Process

- A competitive process will be held only if other expressions of interest are received through either initial or broader advertising. If there are no other proposals, the original proposal will be evaluated on its own merits. Where two or more competing proposals can be accommodated on the land base and are compatible with each other, consideration will be given to approving all of the activities.

- The objective of a competitive process is to determine the most suitable commercial use in terms of environmental, social and economic criteria.

- Proposals will be reviewed against pre-defined evaluation criteria. Proposals that do not meet baseline environmental or social standards will not be considered.

Consultation with Government Agencies

- Proposals are referred to government agencies to identify land and resource issues, including existing and potential commitments, environmental considerations, and implications for the protected areas strategy.

Local Consultation

- Local input will be sought through a variety of consultation techniques.

Consultation with First Nations

- First Nations will be consulted to ensure that their concerns are identified and dealt with.

Evaluation

All proposals will undergo a detailed evaluation.

- Evaluation will be based on a consultative approach involving other government agencies and local interests.

- Studies may be undertaken if additional information is required to fully evaluate proposals.

- Unacceptable proposals will be rejected. Acceptable or conditionally acceptable proposals will continue to Stage III. A decision to proceed to Stage III does not guarantee that tenure will be granted.

Stage III: Management Plan Preparation and Tenuring

Management Plan Preparation

The purpose of the management plan is to:

- specify the area the operator can use, for what purpose and under what terms and conditions;
- specify any measures to: protect the environment; ensure public access is not negatively impacted; minimize impacts on other resource users;
- provide a basis for monitoring the operator's performance.

- Successful proponents will be required to prepare a management plan.

- Where there is a high level of public or government interest, there will be opportunities for input into management plan preparation.

- Proposals will not be considered further unless all concerns raised during the evaluation are satisfactorily addressed in the management plan.

Other Agencies' Permits and Licences Issued

In addition to a Crown land tenure, some commercial operations may require permits from other agencies. These might include, for example, an angling guide licence from BC Environment, or a permit from a local government body. Proposal information, including management plans, will be provided to other government agencies issuing permits or licenses.

- BC Lands will authorize Crown land tenures, subject to issuance of all other required permits and licences.

Crown Land Tenure Issued

After all issues have been satisfactorily addressed, the last step in the process is to issue the Land Act tenure(s).

Appendix 3

Definitions

Backcountry: Extensive areas of Crown land (upland, foreshore, or off-shore) located outside of settlements and settled corridors which normally:

- exhibit signs of minimal to moderate alteration by human activity; and,
- offer a range of recreational experiences within a diversity of landscapes and natural features.

BC Parks is responsible for managing commercial backcountry recreation within provincial parks and recreation areas.

Bonus Bid: The lump-sum amount a proponent is prepared to pay, above the annual rental, to acquire a land-use tenure.

Commercial Backcountry Recreation: Recreational activities carried out in relatively undisturbed natural environments on a fee-for-service basis.

Crown Land Tenures: Under the Land Act, BC Lands may authorize private parties to use Crown land. Different forms of tenure are available to fit the needs of both the public and commercial operators. These include the right to occupy a designated parcel of Crown land for a specific purpose or to perform certain activities, all within a designated time-frame.

Tenures give some level of security to the tenure holder, while giving government the ability to control and manage what happens on the land. Tools available under the Land Act include:

sale - an owner has exclusive rights to the land, and can control the use and management of the land.

lease - allows exclusive use of the land, although requirements for public access through the lease area can be written into the lease. The Crown retains ownership and management authority over the land when a lease is issued.

license - licensees have the right to conduct a specific activity on the land, and do not have the right to exclude the public or other commercial uses. Additional licenses can also be issued over the same area.